

IN RE: PETITION FOR ZONING VARIANCE
E/S York Road, 600 ft. S of
Reaver Run Lane
10913 York Road
8th Election District
3rd Councilmanic District
Robert T. Burgess, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-43-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Zoning Variance from Sections 232.2 and 232.3 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners request relief to permit a side yard setback of 10 ft., in lieu of the required 15 ft., and a rear yard setback of 10 ft., in lieu of the required 20 ft. Further, the Petitioners seek a special variance from the Basic Services Maps, pursuant to Section 4A02.4.D. & F. of the B.C.Z.R. The subject property is located at 10913 York Road in Cockeysville and immediately abuts York Road. The subject site is .2386 acres in area, triangular in shape, and is zoned B.M. The relief requested is more particularly shown on Petitioners' Exhibit No. 3, the site plan to accompany the Petition for Variance.

The Petitioners/property owners, Robert T. Burgess and Lorri A. Burgess appeared and testified at the public hearing. They were represented by G. Warren Mix, Esquire. Also appearing was Jeffrey V. Jaras, the engineer who prepared the site plan. There were no Protestants.

Mrs. Lorri Burgess testified about her plans for the improvement of this property. She intends to construct thereon a single story building

to house her sign painting business. This business, known as Signations, Inc. is operated by the Petitioners and specializes in the construction of advertising and other signs. The business is not involved in the construction of neon or other lighted signs; merely painting custom made signs for its customers. Mrs. Burgess further testified that she has approximately two employees and the anticipated traffic flow to the site is minimal. There are approximately two deliveries per day and little customer traffic is generated by the use. Mrs. Burgess also noted the other commercial uses which are located nearby.

Mr. Jaras testified and presented the site plan which he prepared. He noted that the outdoor advertising sign which presently exists on the site is to be removed. A single story building, 36 ft. deep x 28 ft. wide, will be constructed. There will be a garage door in front and 6 parking spaces will be provided. Further, the proposed parking surface will be durable and dustless, as required by the B.C.Z.R. He also noted that public water and utilities are available to the site.

As to the setback variances, Mr. Jaras noted the unusual configuration of the lot and its triangular shape. Due to the point of access from York Road, the building must be placed on the property so that only a 10 ft. side/rear yard distance can be maintained.

As to the Petition for Special Variance, Mr. Jaras notes that the relevant failing intersection located at York and Pedonia Road is approximately three miles away. He noted that the subject site is just within the area controlled by this intersection on the Basic Services Maps. He does not believe that development on site, as proposed, will adversely affect traffic congestion in the locale. Further, due to the nature of

the proposed use, Mr. Jaras opined that the impact of the development will be minimal.

The Zoning Plans Advisory Committee reviewed the subject Petition and site plan and several recommendations have been made. Both the Office of Planning and Zoning and Developers Engineering Division believe that a landscape plan should be submitted and approved by the County's Landscape Architect. These departments note that the property is located within the historic Cockeysville area and is ripe for redevelopment. Further, the Office of Planning and Zoning suggests permanent removal of the advertising sign presently on site. In fact, the site plan notes that the sign is to be removed.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variances requested, and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variances will be in strict harmony with the spirit and intent of the B.C.Z.R. Further, I am persuaded, based on the uncontradicted evidence, that the proposed development would be less than assumed by the district standard and that the granting of the Petition will not adversely affect any person who may have filed for relief prior to the Petitioners; all as required by Section 4A02.4.F. of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 19th day of November, 1992 that the Petition for a Zoning Variance from Sections 232.2 and 232.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) seeking relief to permit a side yard setback of 10 ft., in lieu of the required 15 ft., and a rear yard setback of 10 ft., in lieu of the required 20 ft., be and is hereby GRANTED; and,

ORDER RECEIVED FOR FILING
Date 11/19/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 11/19/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 11/19/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 11/19/92
By [Signature]

IT IS FURTHER ORDERED that the a special variance from the Basic Services Maps, pursuant to Section 4A02.4.D. and F. of the B.C.Z.R., all in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the Baltimore County Zoning Plans Advisory Committee (2AC) comments submitted by the Office of Planning and Zoning, dated September 1, 1992, be adopted in their entirety and made a part of this Order.
3. When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.
4. The outdoor advertising sign presently on site shall be permanently removed.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

November 18, 1992

G. Warren Mix, Esquire
Turnbull, Mix and Farmer
706 Washington Avenue
Towson, Maryland 21204

RE: Case No. 93-43-A
Petition for Variance
10913 York Road

Dear Mr. Mix:

Enclosed please find the decision rendered in the above captioned case. The Petition for Variance has been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmn
att.
cc: Mr. and Mrs. Robert T. Burgess

ORDER RECEIVED FOR FILING
Date 11/19/92
By [Signature]



Petition for Variance

to the Zoning Commissioner of Baltimore County 93-43-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 232.2 and 232.3 of the B.C.Z.R. To allow a side/rear yard setback of 10' in lieu of the required 15'/20' and a special variance from the Basic Services MAPS under Section 4A02.4 D & F.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)
- 1) The limited size and unusual configuration of the property in addition to the location of the existing driveway prohibit the construction of a commercial building in strict compliance with Baltimore County Zoning Regulations without relief
 - 2) The traffic into and out of the proposed site will be equal to or less than existing conditions and therefore have no significant impact on existing traffic patterns in Property is to be posted and advertised as prescribed by Zoning Regulations York Road.

I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Robert T. Burgess

[Signature]

Lorri A. Burgess

[Signature]

City and State

Attorney for Petitioner:

N/A

(Type or Print Name)

Signature

Address

City and State

Address

City and State

Attorney's Telephone No.:

3601 Rockdale Rd. W(410)887-7762

Address

Millers, Maryland 21107

City and State

Name, address and phone number of legal owner, contact purchaser or representative to be contacted

Same as Above

Name

Address

Office Use Only

ESTIMATED LENGTH OF HEARING - 1/2 HR.

AVAILABLE FOR HEARING

ALL MON./TUES./WED. - NEXT TWO MONTHS

REVIEWED BY: CAM DATE

LEON A. PODOLAK AND ASSOCIATES SURVEYING AND CIVIL ENGINEERING

53 EAST MAIN STREET, P.O. BOX 266
WESTMINSTER, MARYLAND 21157
TELEPHONES: WESTMINSTER 848-2229 BALTIMORE 876-1226

93-43-A
Description

To accompany petition for Zoning Variance 0.2246 Acre parcel of the Robert T. and Lorri Burgess property located in Cockeysville, at 10903 York Road, in the Eight Election District, Baltimore County, Maryland.

Beginning for the same at the end of the two following courses and distances measured from the intersection formed by the centerline of York Road having a variable width Right-of-Way, with the centerline of the Mass Transit Administration Right-of-Way being sixty six feet wide, formerly known as the Pennsylvania Railroad Company Right-of-Way, thence leaving said intersection and running with and binding on the centerline of York Road, in a Northwesterly direction for a distance of 120 feet more or less distance of thirty four feet more or less to the point of beginning, thence leaving said point of beginning and running with and binding on the Easternmost Right-of-Way line of York Road and referring all courses of this description to the grid meridian established in the Baltimore County Metropolitan District (1) North 19° 46' 06" West 165.15 feet, thence leaving said Right-of-Way line and running in a Northeasterly direction North 68° 57' 23" East 122.14 feet to intersect with the Westernmost Right-of-Way line of the aforementioned Pennsylvania Railroad Company thence running and binding on said Right-of-Way line (1) by a line curving to the left in a Southwesterly direction having a radius of 2490.80 feet for a distance of 207.65 feet the arc of which is subtended by the chord South 16° 15' 48" West 207.59 feet to the point of beginning.

Containing 0.2246 Acres of land more or less.

This description has been prepared for Zoning purposes only and is not intended to be used for conveyance.



Westminster, this 19th day of March, 1992.
Jeffrey V. Jaras
Jeffrey V. Jaras,
R.P.L.S. No. 2388

EXHIBIT No. 2

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 93-43-A Date of Posting: 9/14/92

Posted for: Robert T. Burgess

Petitioner: Robert T. Burgess

Location of property: 3601 Rockdale Road, Millers, MD 21107

Location of Sign: Along York Rd. on property of P. Burgess

Remarks: _____

Posted by: William J. Jablon Date of return: 9/16/92

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/14, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/13, 1992

THE JEFFERSONIAN,
S. Zake Orlov
Publisher

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

September 22, 1992

Mr. & Mrs. Robert T. Burgess
3601 Rockdale Road
Millers, MD 21107

RE: Item No. 51, Case No. 93-43-A
Petitioner: Mr. Robert T. Burgess, et ux
Petition for Variance

Dear Mr. & Mrs. Burgess:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-4190
Number

8/12/92

PUBLIC HEARING FEES	QTY	PRICE
500 ZONING VARIANCE (OTHER)	1 X	\$250.00
LAST NAME OF OWNER: BURGESS	TOTAL:	\$250.00

Please Make Checks Payable To: Baltimore County
BA C004:04PMB-12-92

Baltimore County
Zoning Administration & Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R-001-4190
Number

9/21/92

93-43

PUBLIC HEARING FEES	QTY	PRICE
500 ZONING VARIANCE (OTHER)	1 X	\$69.55
LAST NAME OF OWNER: BURGESS	TOTAL:	\$69.55

Please Make Checks Payable To: Baltimore County
BA C004:04PMB-21-92

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 13th day of August, 1992

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:
W. Carl Richard Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Mr. Robert T. Burgess, et ux
Petitioner's Attorney:

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

DATE: 9/16/92

Robert and Lorri Burgess
3601 Rockdale Road
Millers, Maryland 21107

RE:
CASE NUMBER: 93-43-A (Item 51)
E/S York Road, 600' S of Beaver Run Lane
10913 York road
8th Election District - 3rd Councilmanic
Petitioner(s): Robert T. Burgess and Lorri A. Burgess
HEARING: THURSDAY, OCTOBER 1, 1992 at 2:00 p.m. in Rm. 106, Office Building

Dear Petitioner(s):

Please be advised that \$ 69.55 is due for advertising and posting of the above captioned property and hearing date.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.
Zoning Advisory Committee Meeting
for August 31, 1992
Item No. 51

DATE: August 31, 1992

RE: Zoning Advisory Committee Meeting
for August 31, 1992
Item No. 51

The Developers Engineering Division has reviewed the subject zoning item. This site is subject to minor subdivision comments. In addition, this site is subject to the requirements of the Baltimore County Landscape Manual.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:DAK:g

7749-92
SW

RECEIVED
SEP 1 1992
ZONING OFFICE

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

August 28, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-43-A (Item 51)
E/S York Road, 600' S of Beaver Run Lane
10913 York road
8th Election District - 3rd Councilmanic
Petitioner(s): Robert T. Burgess and Lorri A. Burgess
HEARING: THURSDAY, OCTOBER 1, 1992 at 2:00 p.m. in Rm. 106, Office Building

Variance to allow a side/rear yard setback of 10 feet in lieu of the required 15 feet/20 feet and a special variance from the Basic Services Maps.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

cc: Robert and Lorri Burgess

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: September 1, 1992

SUBJECT: Burgess Property

INFORMATION:
Item Number: 51

Petitioner: Robert T. Burgess

Property Size: 0.23 acres

Zoning: B.M.

Requested Action: Variance

Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:

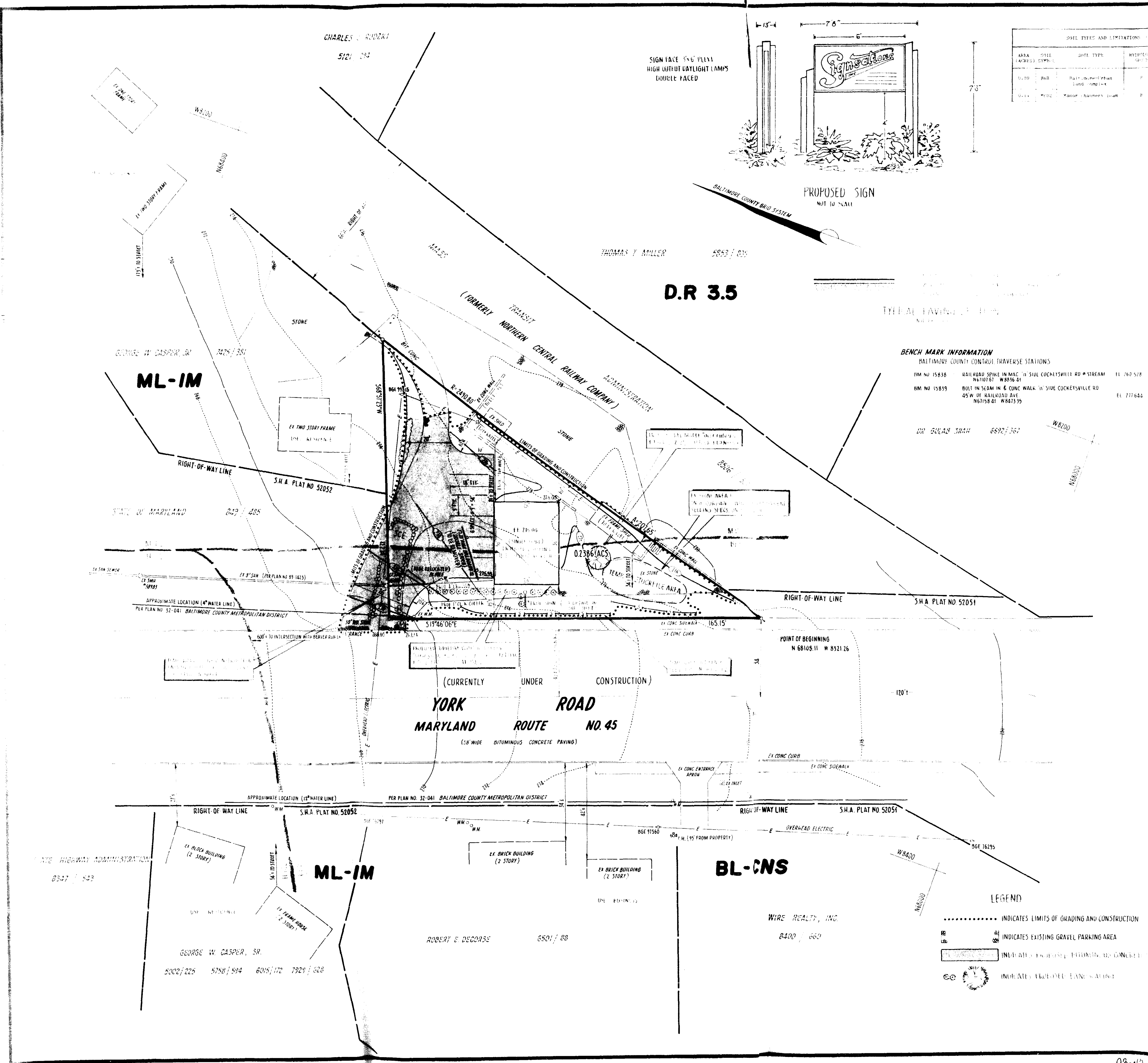
The petitioner is requesting a variance to allow a side/rear yard setback of 10' in lieu of the required 15'/20' and a special variance from the Basic Services Maps under Section 4A02.4.B&F.

The Office of Planning and Zoning recommends **APPROVAL**, subject to the following conditions:

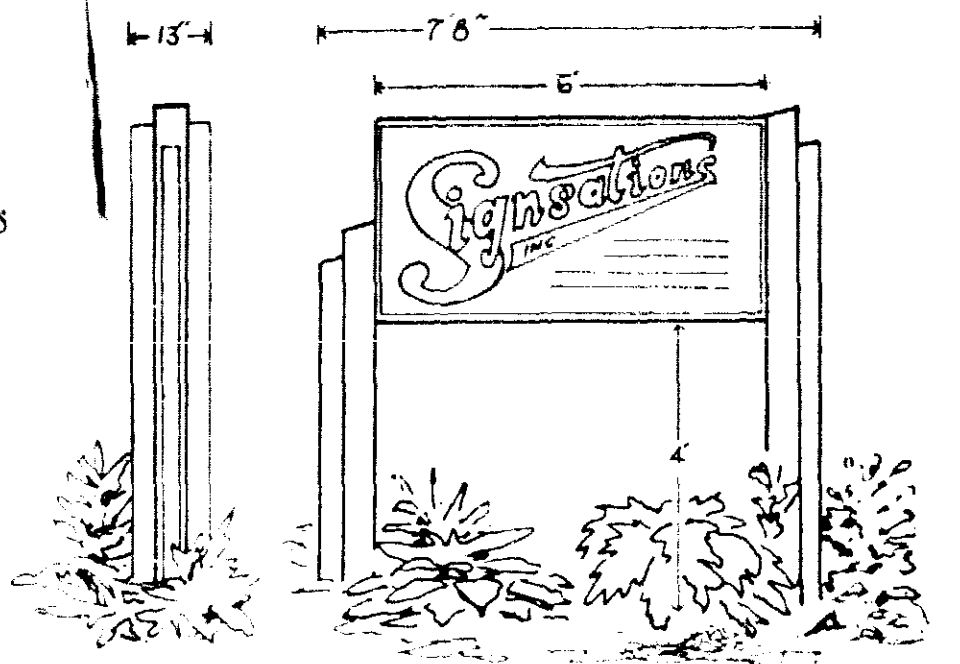
1. Strict compliance with the Landscape Manual.
2. Provide architectural details that are compatible with the historic nature of Cockeysville.
3. Provide street trees along York Road at 40' intervals.
4. Permanent removal of the outdoor advertising sign.

The Hunt Valley/Timonium Redevelopment Study identifies Cockeysville as an area for potential redevelopment and revitalization. Any new development should be of a quality that reflects the historic nature of Cockeysville. The study also

51.ZAC/ZAC1 Pg. 1

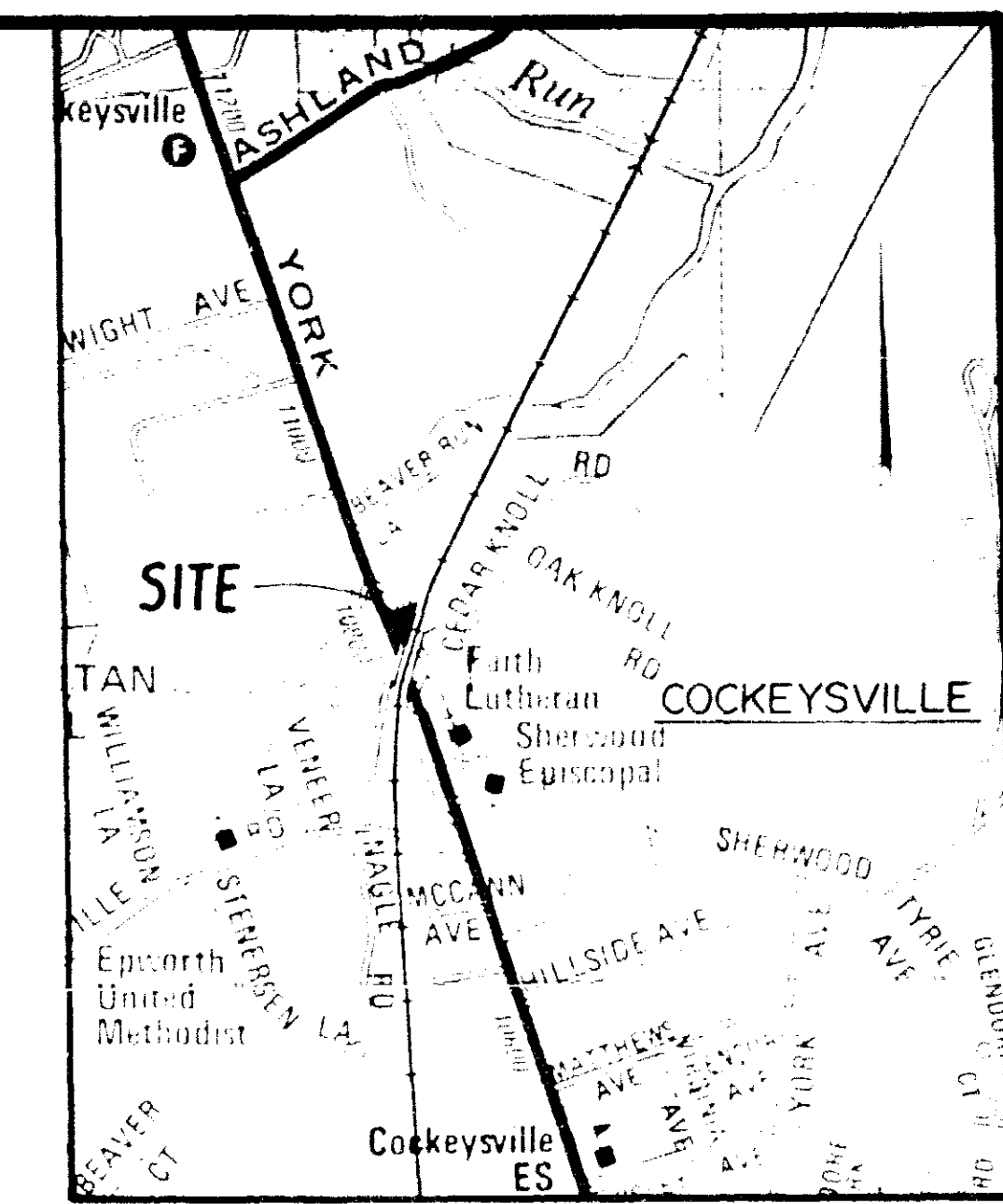


SIGN FACE 156 PLY
HIGH INTENSITY DAYLIGHT LAMP
DOUBLE FACED



PROPOSED SIGN
NOT TO SCALE

AREA	SOIL TYPE	SOIL LIMITATIONS	HAZARD	REMARKS
0.10	PAH	Highly permeable	F	Highly permeable
0.11	PAH	Highly permeable	F	Highly permeable
0.12	PAH	Highly permeable	F	Highly permeable
0.13	PAH	Highly permeable	F	Highly permeable
0.14	PAH	Highly permeable	F	Highly permeable
0.15	PAH	Highly permeable	F	Highly permeable
0.16	PAH	Highly permeable	F	Highly permeable
0.17	PAH	Highly permeable	F	Highly permeable
0.18	PAH	Highly permeable	F	Highly permeable
0.19	PAH	Highly permeable	F	Highly permeable
0.20	PAH	Highly permeable	F	Highly permeable



VICINITY MAP
SCALE: 1" = 100'

BENCH MARK INFORMATION

BALTIMORE COUNTY CONTIGUOUS TRAVERSE STATIONS	STATION	ELEVATION
BM NO 15838	RAILROAD SPIKE IN MAC IN SIDE COCKEYSVILLE RD W/ STREAM	EL 760.518
BM NO 15839	BUILT IN SEAM IN 6 CONC WALK W/ SIDE COCKEYSVILLE RD	EL 777.645
BM NO 15840	45 W/ OF RAILROAD AVE	EL 777.645
BM NO 15841	W/ SIDE COCKEYSVILLE RD	EL 777.645

1. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
2. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
3. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
4. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
5. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
6. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
7. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
8. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
9. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
10. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
11. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
12. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
13. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.
14. The proposed development is located within the boundaries of the Baltimore County Metropolitan District.

PETITIONER'S EXHIBIT No 3

**SITE DEVELOPMENT PLAN
of
ROBERT T. and LORRI BURGESS PROPERTY - 10913 YORK RD.**

10913 YORK RD
BALTIMORE COUNTY, MD

OWNER
ROBERT T. and LORRI BURGESS
10913 YORK RD
BALTIMORE, MD 21229

COUNTY COUNCIL DISTRICT NO. 4
TAX ACCOUNT NO. 08140551

TAX MAP NO. 32 BLOCK NO. 22 PARCEL NO. 519

LEON A. PODOLAK AND ASSOCIATES

SURVEYING AND CIVIL ENGINEERING

111 EAST MAIN ST. WESTMINSTER, MD 21157
P.O. BOX 1000 WESTMINSTER, MD 21157

PETER E. PODOLAK REG. NO. 19551

Date: JULY 18, 1992 Scale: 1" = 20'

Drawing No.

SHEET
1
OF
2

93-42-A